

# **Exhibit B**

**From:** "Jonke, Kevin M." <kevin.jonke@kirkland.com>  
**Date:** September 21, 2023 at 6:10:08 PM MDT  
**To:** John Hughes <JHughes@milberg.com>  
**Cc:** "Katz, Katherine R." <katherine.katz@kirkland.com>, "Long, Emily Merki" <emily.long@kirkland.com>, "Provance, Matthew D." <MProvance@mayerbrown.com>, "Stride, Megan E." <MStride@mayerbrown.com>, BMiller@mayerbrown.com, "Nemelka, Michael N." <mnemelka@kellogghansen.com>, "DMSTEAM (MILBERG.COM)" <dmsteam@milberg.com>, "Dorris, Daniel V." <ddorris@kellogghansen.com>, Peggy Wedgworth <pwedgworth@milberg.com>  
**Subject:** [EXTERNAL] RE: Dealership Plaintiffs' Proposal to CDK per M&C on Class Cert Data Requests

John,

Thank you for your email. We are close to agreement. We will, however, need to adjust your proposed schedule to make time for all parties to restore, collect, and produce the data at issue. Other modifications flow from that adjustment. We agree that all parties retain all rights if an agreement is not reached in this negotiation.

**Our proposed schedule is as follows:**

- The schedule will be modified as follows:
  - **Monday, November 27, 2023:** Opening Class Certification Briefs and Expert Reports
  - **Monday, January 8, 2024:** Opposition Class Certification Brief(s), Expert Report(s), & Opening Daubert Briefs
  - **Monday, February 26, 2024:** Reply Class Certification Briefs, Reply Class Certification Expert Reports, & Opposition Daubert Briefs
  - **March 25, 2024:** Reply Daubert Briefs

As the following chart reflects, this schedule proceeds at roughly the same pace as the current one. It also accounts for the time necessary to restore, collect, and produce the relevant data.

	Current		Plaintiffs		CDK
Opening	3-Oct	31 days	3-Nov	24 days	27-Nov
	42 days		42 days		42 days
Opposition	14-Nov	31 days	15-Dec	24 days	8-Jan
	51 days		49 days		50 days
Reply	4-Jan	29 days	2-Feb	24 days	26-Feb
	33 days		21 days		29 days
Reply Daubert	6-Feb	17 days	23-Feb	28 days	25-Mar

**As to CDK, our proposal is as follows:**

- By October 23, 2023, CDK will produce, for the period from May 1, 2019 to September 15, 2023, data supplementing the invoice data previously produced by CDK as CDK-3112783, CDK-3112784, CDK-3112785, CDK-3112786, CDK-3112787, CDK-112788, CDK-3112789, CDK-3112790, CDK-3112791, CDK-3116422 and CDK-3116424. For the avoidance of doubt, this production will comprise structured data regarding DMS and DIS sales at the invoice level, and as far as reasonably possible, CDK will produce this information in the same format as the aforementioned Bates numbered documents.
- CDK expressly reserves all rights to argue that any additional data is irrelevant to any claim, but agrees not to make any argument against an extrapolation of damages after September 15, 2023 on grounds that the data is stale.
- CDK agrees that it will not request any change to the current trial date based on the new schedule for class certification.

**As to the Dealers, our proposal is as follows:**

- By October 23, 2023, as to each Dealer Class Representative, Dealers agree to produce from June 1, 2019 to September 15, 2023, responsive documents sufficient to show all up-front, initial (non-recurring) and monthly fees paid to Data Extractors and Vendors (on a per-application basis) (the “Dealer Data”).
  - As to each Dealer Class Representative with a Reynolds DMS, Dealers agree to produce reports containing Dealer Data from the Reynolds DMS.
  - As to each Dealer Class Representative with a CDK DMS, Dealers agree to use best efforts, including but not limited to obtaining any necessary permissions, to enable CDK to generate reports containing Dealer Data from the CDK DMS.
- As to any newly added Dealer Class Representative, Dealers agree that (1) the terms of the previous bullet apply from January 1, 2013 to September 15, 2023; and (2) Dealers will make a representative of any such newly added Dealer Class Representative available for deposition in advance of CDK’s class opposition deadline.
- Dealers agree to serve updated responses to Interrogatories No. 2 and 3.
- Dealers agree not to make any future requests to refresh the data responsive to their Class

Certification RFP No. 1.

**As to the Vendors, our proposal is as follows:**

- AutoLoop will specify by September 27, 2023 which of the following categories of documents it will be able to produce by October 23, 2023:
  - Master MRRs (e.g., AL\_MDL\_0082316)
  - Invoice-level data for AutoLoop apps (e.g., AL\_MDL\_0077574)
  - AL and XRM Income by Customer (e.g., AL\_MDL\_0080869)
  - Audited Financial Statements (e.g., AL\_MDL\_0080843)
- Vendors agree not to make any future requests to refresh the data responsive to AutoLoop's Class Certification RFP No. 1.

**Kevin Jonke**

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**From:** John Hughes <JHughes@milberg.com>

**Sent:** Thursday, September 21, 2023 9:18 AM

**To:** Jonke, Kevin M. <kevin.jonke@kirkland.com>

**Cc:** Katz, Katherine R. <katherine.katz@kirkland.com>; Long, Emily Merki <emily.long@kirkland.com>; Provance, Matthew D. <MProvance@mayerbrown.com>; Stride, Megan E. <MStride@mayerbrown.com>; \*BMiller@mayerbrown.com <BMiller@mayerbrown.com>; mnemelka@kelloggghansen.com; DMSTeam <DMSTeam@milberg.com>; ddorris@kelloggghansen.com; Peggy Wedgworth <PWedgworth@milberg.com>

**Subject:** RE: Dealership Plaintiffs' Proposal to CDK per M&C on Class Cert Data Requests

Kevin,

Thank you for providing CDK's proposal and confirming that CDK is willing to produce data supplementing the previously produced documents cited in Dealers' Class Certification RFP No. 1, from May 1, 2019 to September 15, 2023. The Dealers and Vendor plaintiffs ("Plaintiffs") are willing to agree to your proposal with the following modifications:

- CDK produces by September 30, 2023, all data requested in our 9/15/2023 email, in the same format as previously produced in the Bates numbered documents cited in RFP 1.
- CDK agrees all parties retain all rights if an agreement is not reached in this negotiation.
- The briefing schedule will be modified as follows:
  - Opening Class Certification Briefs – November 3, 2023

- Opposition Class Certification Brief & Opening Daubert Briefs – December 15, 2023
- Reply Class Certification Brief & Opposition Daubert Briefs – February 2, 2024,
- Reply Daubert Briefs – February 23, 2024
- CDK agrees that in no circumstance shall it request any change to the current trial date with jury selection to begin on September 20, 2024, as established by Judge Pallmeyer.
- Plaintiffs cannot agree that we will not seek further discovery from CDK. However, Plaintiffs will agree not to make any future requests to refresh the data responsive to RFP No. 1 if CDK agrees that it will not make any argument against an extrapolation of damages based on this data on grounds that the data is stale.

Regarding Defendants' requested refresh of Dealers' production:

- As to each Dealer Class Representative, Dealers agree to produce from June 2019 to September 15, 2023, responsive documents sufficient to show all up-front, initial (non-recurring) and monthly fees paid to Data Extractors and Vendors (on a per-application basis). However, CDK shall extract all reports and data which are available or can be accessed or created on the CDK DMS of each Dealer Class Representative. To be clear, Dealers will not generate and produce reports from the CDK DMS as CDK has access to the CDK DMS.
- Dealers agree the previous bullet applies to any newly added Dealer Class Representative.
- Dealers agree to serve updated responses to Interrogatories No. 2 and 3.

With regard to CDK's requested refresh of Vendor plaintiffs' data, AutoLoop is investigating the possibility of producing this data requested on September 19 and expects to be able to specify what data it will be able to produce by September 27.

Please respond as to your agreement with this compromise proposal by close of business tomorrow so that we may have time to make the appropriate request to the Court.

Thank you,  
John Hughes and Peggy Wedgworth on behalf of Dealers  
Michael Nemelka and Dan Dorris on behalf of Vendors

John D. Hughes  
Attorney at Law\*  
Senior Counsel



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**From:** Jonke, Kevin M. <[kevin.jonke@kirkland.com](mailto:kevin.jonke@kirkland.com)>

**Sent:** Tuesday, September 19, 2023 8:07 PM

**To:** Peggy Wedgworth <[pwedgworth@milberg.com](mailto:pwedgworth@milberg.com)>

**Cc:** Katz, Katherine R. <[katherine.katz@kirkland.com](mailto:katherine.katz@kirkland.com)>; Long, Emily Merki <[emily.long@kirkland.com](mailto:emily.long@kirkland.com)>; John Hughes <[JHughes@milberg.com](mailto:JHughes@milberg.com)>; Provance, Matthew D. <[MProvance@mayerbrown.com](mailto:MProvance@mayerbrown.com)>; Stride, Megan E. <[MStride@mayerbrown.com](mailto:MStride@mayerbrown.com)>; \*BMiller@mayerbrown.com <[BMiller@mayerbrown.com](mailto:BMiller@mayerbrown.com)>; [mnemelka@kelloggghansen.com](mailto:mnemelka@kelloggghansen.com); DMSTeam <[DMSTeam@milberg.com](mailto:DMSTeam@milberg.com)>; [ddorris@kelloggghansen.com](mailto:ddorris@kelloggghansen.com)

**Subject:** RE: Dealership Plaintiffs' Proposal to CDK per M&C on Class Cert Data Requests

All,

Thanks for the call this afternoon. As discussed, CDK is willing to produce data supplementing the previously produced documents cited in Dealers' Class Certification RFP No. 1, from May 1, 2019 to September 2023, subject to the following conditions:

- We reserve all rights to argue that any additional data is irrelevant to any claim;
- Dealers and Vendors agree not to seek further discovery from CDK;
- Dealers and Vendors agree to refresh their own prior discovery, as detailed below; and
- Dealers and Vendors agree to jointly request a two-month extension of the current class certification schedule.

As previewed on our call, CDK requests the following categories of refreshed discovery:

- Dealers
  - From June 2019 to present, as to each Dealership Class Representative, responsive transactional data from that Dealership's DMS (per Dealers' June 13, 2019 production letter and August 6, 2019 letter) sufficient to show "all up-front, initial (non-recurring) and monthly fees paid to Data Extractors and Vendors (on a per-application basis)" (per

- Dealer's July 28, 2018 letter);
  - From June 2019 to present, as to each Dealership Class Representative, responsive accounting reports and statements (per Dealers' June 13, 2019 production letter and August 6, 2019 letter) sufficient to show "all up-front, initial (non-recurring) and monthly fees paid to Data Extractors and Vendors (on a per-application basis)" (per Dealer's July 28, 2018 letter);
  - From January 1, 2013 to present, the materials in the prior two bullets as to any Dealer that you will seek to add as a new Dealership Class Representative;
  - Updated responses to Interrogatory No. 2: Identify, for the entire claimed class period, each DMS provider, Data Extractor, and Vendor that each Dealership Class Plaintiff has used, including (1) the type of service provided; (2) for each Data Extractor, the Vendor(s) to whom they provide(d) data; and (3) for each Vendor, the Data Extractor(s) they used.
  - Updated responses to Interrogatory No. 3: For each DMS provider, Data Extractor, and Vendor identified in Interrogatory No. 2, state (1) the list price of the products or services; (2) the net negotiated price of the products or services before tax, including any discounts, coupons, rebates, refunds, dividends, or any other price adjustment; (3) any rebates, allowances, discounts, refunds, dividends or other price adjustments applied to the price of the product or service; and (4) any taxes or fees paid by any Person in connection with the acquisition of the products or services.
- Vendors—from the date of each dataset's last refresh to present, as to each Vendor Class Representative:
    - Master MRRs (e.g., AL\_MDL\_0082316)
    - Invoice-level data for AutoLoop apps (e.g., AL\_MDL\_0077574)
    - AL and XRM Income by Customer (e.g., AL\_MDL\_0080869)
    - Audited Financial Statements (e.g., AL\_MDL\_0080843)

We'd appreciate your response to this proposal by Thursday at 5pm ET, so we can schedule another call as needed and leave sufficient time to ask the Court for an extension.

Thanks,  
Kevin

**Kevin Jonke**

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**From:** Long, Emily Merki <[emily.long@kirkland.com](mailto:emily.long@kirkland.com)>

**Sent:** Monday, September 18, 2023 11:00 AM

**To:** John Hughes <[JHughes@milberg.com](mailto:JHughes@milberg.com)>; Jonke, Kevin M. <[kevin.jonke@kirkland.com](mailto:kevin.jonke@kirkland.com)>

**Cc:** Katz, Katherine R. <[katherine.katz@kirkland.com](mailto:katherine.katz@kirkland.com)>; Provance, Matthew D. <[MProvance@mayerbrown.com](mailto:MProvance@mayerbrown.com)>; Stride, Megan E. <[MStride@mayerbrown.com](mailto:MStride@mayerbrown.com)>; \*BMiller@mayerbrown.com <[BMiller@mayerbrown.com](mailto:BMiller@mayerbrown.com)>; [mnemelka@kelloggghansen.com](mailto:mnemelka@kelloggghansen.com); DMSTeam <[DMSTeam@milberg.com](mailto:DMSTeam@milberg.com)>; [ddorris@kelloggghansen.com](mailto:ddorris@kelloggghansen.com)  
**Subject:** RE: Dealership Plaintiffs' Proposal to CDK per M&C on Class Cert Data Requests

John - 2pm tomorrow works for us; we'll send a Zoom invite. And you're correct that our proposal does not contemplate a change in trial dates. We reserve all rights. Thanks, Emily

**Emily Merki Long**

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**Sent:** Monday, September 18, 2023 11:49 AM  
**To:** Long, Emily Merki <[emily.long@kirkland.com](mailto:emily.long@kirkland.com)>; Jonke, Kevin M. <[kevin.jonke@kirkland.com](mailto:kevin.jonke@kirkland.com)>  
**Cc:** Katz, Katherine R. <[katherine.katz@kirkland.com](mailto:katherine.katz@kirkland.com)>; Provance, Matthew D. <[MProvance@mayerbrown.com](mailto:MProvance@mayerbrown.com)>; Stride, Megan E. <[MStride@mayerbrown.com](mailto:MStride@mayerbrown.com)>; \*BMiller@mayerbrown.com <[BMiller@mayerbrown.com](mailto:BMiller@mayerbrown.com)>; [mnemelka@kelloggghansen.com](mailto:mnemelka@kelloggghansen.com); DMSTeam <[DMSTeam@milberg.com](mailto:DMSTeam@milberg.com)>; [ddorris@kelloggghansen.com](mailto:ddorris@kelloggghansen.com)  
**Subject:** RE: Dealership Plaintiffs' Proposal to CDK per M&C on Class Cert Data Requests

We are not available today, but does 2 pm Eastern tomorrow work? In the interim we are assuming that your proposal would not change the trial date. Of course, we reserve all rights should we not reach an agreement.

Thanks

John D. Hughes  
Attorney at Law\*  
Senior Counsel

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**From:** Long, Emily Merki <[emily.long@kirkland.com](mailto:emily.long@kirkland.com)>  
**Sent:** Monday, September 18, 2023 11:37 AM  
**To:** Jonke, Kevin M. <[kevin.jonke@kirkland.com](mailto:kevin.jonke@kirkland.com)>; John Hughes <[JHughes@milberg.com](mailto:JHughes@milberg.com)>  
**Cc:** Katz, Katherine R. <[katherine.katz@kirkland.com](mailto:katherine.katz@kirkland.com)>; Provance, Matthew D. <[MProvance@mayerbrown.com](mailto:MProvance@mayerbrown.com)>; Stride, Megan E. <[MStride@mayerbrown.com](mailto:MStride@mayerbrown.com)>; \*BMiller@mayerbrown.com <[BMiller@mayerbrown.com](mailto:BMiller@mayerbrown.com)>; [mnemelka@kelloggghansen.com](mailto:mnemelka@kelloggghansen.com); DMSTeam <[DMSTeam@milberg.com](mailto:DMSTeam@milberg.com)>; [ddorris@kelloggghansen.com](mailto:ddorris@kelloggghansen.com)  
**Subject:** RE: Dealership Plaintiffs' Proposal to CDK per M&C on Class Cert Data Requests

John,

Following up on Kevin's email from Friday, are you all available at 4pm ET today?

Thanks,  
Emily

#### Emily Merki Long

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**To:** [JHughes@milberg.com](mailto:JHughes@milberg.com)  
**Cc:** Katz, Katherine R. <[katherine.katz@kirkland.com](mailto:katherine.katz@kirkland.com)>; Long, Emily Merki <[emily.long@kirkland.com](mailto:emily.long@kirkland.com)>; Provance, Matthew D. <[MProvance@mayerbrown.com](mailto:MProvance@mayerbrown.com)>; Stride, Megan E. <[MStride@mayerbrown.com](mailto:MStride@mayerbrown.com)>; \*BMiller@mayerbrown.com <[BMiller@mayerbrown.com](mailto:BMiller@mayerbrown.com)>; [mnemelka@kelloggghansen.com](mailto:mnemelka@kelloggghansen.com); [DMSTeam@milberg.com](mailto:DMSTeam@milberg.com); [ddorris@kelloggghansen.com](mailto:ddorris@kelloggghansen.com)  
**Subject:** RE: Dealership Plaintiffs' Proposal to CDK per M&C on Class Cert Data Requests

John,

Without waiving the right to dispute the relevance of specific additional discovery, CDK is willing to agree to reasonable additional discovery, provided the parties jointly request a reasonable extension of the class certification schedule. The parties should brief class certification, and the experts should address it, based on the complete record. We are available to discuss details on Monday from 11-2pm or after 4pm (all times ET). Please let us know if there's a window that works for plaintiffs.

Thanks,  
Kevin

**Kevin Jonke**

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**From:** John Hughes <[JHughes@milberg.com](mailto:JHughes@milberg.com)>

**Date:** September 15, 2023 at 1:12:03 PM CDT

**To:** "Provance, Matthew D." <[MProvance@mayerbrown.com](mailto:MProvance@mayerbrown.com)>, "Stride, Megan E." <[MStride@mayerbrown.com](mailto:MStride@mayerbrown.com)>

**Cc:** "Miller, Britt M." <[BMiller@mayerbrown.com](mailto:BMiller@mayerbrown.com)>, DMSTeam <[DMSTeam@milberg.com](mailto:DMSTeam@milberg.com)>, "Nemelka, Michael N." <[mnemelka@kelloggghansen.com](mailto:mnemelka@kelloggghansen.com)>, "Dorris, Daniel V." <[ddorris@kelloggghansen.com](mailto:ddorris@kelloggghansen.com)>

**Subject: Dealership Plaintiffs' Proposal to CDK per M&C on Class Cert Data Requests**

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Matt and Megan,

We write to follow up on the meet and confer held this past Wednesday, September 13, regarding CDK's September 7th Responses and Objections to Dealership Class Plaintiffs 1st Set of Class Certification Requests. During that call, in the interest of expedience and to aid the efficiency of our negotiations we offered a compromise proposal to CDK, reserving all rights to pursue each of our requests in their entirety. CDK asked whether Dealership Plaintiffs would make an as yet undefined reciprocal production of documents or data. As we noted during the call, no request has been made by CDK with respect to our clients for the production of any data or documents, and that to the extent any CDK requests production pertaining to CDK's now dismissed counterclaims, such requests are not relevant to this litigation, are unduly burdensome, and are disproportionate to the needs of the case.

Dealership Plaintiffs retain all rights to seek production in response to Requests 1-5 to CDK, however, in the interest of efficiency, we proposed that should CDK make a fully responsive production in response to Request 1, Dealership Plaintiffs are willing to forgo production for Requests 2 through 5. Mr. Provance, on behalf of CDK, responded that he would take our proposal back to his client for consideration and provide their response.

We request that we receive CDK's response to our proposal no later than Tuesday, September 19.

Best,

John

John D. Hughes  
Attorney at Law\*  
Senior Counsel

[<image007.png>](#)

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